

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
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3 UNITED STATES OF AMERICA,

4 v.

12 Cr. 798 (LAP)

5 REZA OLANGIAN,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 January 9, 2015  
9:00 a.m.

10 Before:

11 HON. LORETTA A. PRESKA,

12 Chief Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the  
16 Southern District of New York

17 SHANE STANSBURY

Assistant United States Attorney

18 LEE A. GINSBERG

19 Attorney for Defendant  
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1 (Case called)

2 THE COURT: Good morning. Is the government ready?

3 MR. STANSBURY: Yes. Good morning, your Honor. Shane  
4 Stansbury for the government.

5 THE COURT: Good morning. Is the defense ready?

6 MR. GINSBERG: Yes, your Honor. Lee Ginsberg  
7 appearing for Mr. Olangian.

8 THE COURT: Good morning. Counsel, as you know, I  
9 have your motions and have reviewed them.

10 For the record, the motion seeks generalized discovery  
11 that includes all Brady material, all Rule 16 discovery  
12 material, early production of Jencks Act and Giglio material,  
13 expert disclosures, the government's witness list, and the bill  
14 of particulars.

15 In addition, defendant requests notice of any 404(b)  
16 evidence that the government plans to introduce, and  
17 preemptively asks the Court to preclude the government from  
18 introducing any of the defendant's prior illegal acts or  
19 criminal convictions at trial.

20 The defense motion, however, does not identify any  
21 specific discovery that has been withheld, any particularized  
22 need for a witness list or bill of particulars, or any prior  
23 bad acts or convictions that the government might introduce at  
24 trial.

25 Indeed, defense counsel quite candidly "acknowledges

1 that the government has responded to (all discovery requests)  
2 and has provided the defendant with a substantial amount of  
3 discovery."

4 Ultimately, the motion is made, in counsel's words  
5 "out of an abundance of caution," as a belt and suspenders  
6 strategy of protecting the defendant's discovery rights.

7 The government's opposition is persuasive. To the  
8 extent that the defendant seeks Rule 16 discovery, Brady  
9 material, and expert material, the government notes that it is  
10 aware of its production obligations and has already turned over  
11 all such material in its possession. The government further  
12 assures the Court that it will continue to produce such  
13 discovery in a timely manner, to the extent it becomes  
14 available.

15 Regarding the Giglio and Jencks Act material, the  
16 government notes that the request is premature because a trial  
17 date has not been set, and the government again assures the  
18 Court that it will produce all such material "sufficiently in  
19 advance of a witness's testimony so as to avoid any delay at  
20 trial."

21 The government opposes the production of the names and  
22 addresses of its witnesses because the defense has not made a  
23 particularized showing of need, and because this case, which  
24 involves alleged trafficking of surface-to-air missiles in  
25 Iran, triggers safety concerns for government witnesses.

1           The government opposes production of a bill of  
2 particulars because the indictment, amended complaint, and  
3 discovery all provide sufficient detail regarding the alleged  
4 illegal conduct.

5           Finally, the government opposes the motion to exclude  
6 prior bad acts and convictions as overbroad and premature,  
7 noting that the government will provide "reasonable notice in  
8 advance of trial" of all 404(b) evidence it plans to introduce.

9           Accordingly, the motion is denied in its entirety. It  
10 is moot as to Brady, Rule 16, and expert disclosures, premature  
11 as to Giglio, Jencks Act, and 404(b) material, and meritless,  
12 certainly, as to the witness list and bill of particulars.

13           What else would you like to discuss today, counsel?  
14 Would you like a trial date?

15           MR. GINSBERG: Not necessarily.

16           THE COURT: What else is there left to do,  
17 Mr. Ginsberg?

18           MR. GINSBERG: There are other matters. I had a  
19 discussion with the government after I received the discovery  
20 material. When we reviewed it, it became clear to me that  
21 there was a computer and a cell phone that had been seized from  
22 the defendant, which the government, for their own reasons, had  
23 not downloaded the material and put it on any kind of format;  
24 an image, for example. When I became aware of that after  
25 reviewing all of the discovery, I requested that the government

1 make that available because it may be useful for me in terms of  
2 a trial, if it's exculpatory material, which we feel it might  
3 be.

4 We've had back and forth emails, and today I was  
5 provided with approximately 20 disks which represent the  
6 material from the computer. I've been advised by the  
7 government that, in Mr. Buckley's words, which is probably a  
8 new world technology word, the government has not exploited the  
9 cell phone, which I took to mean they didn't go into the cell  
10 phone itself to take out any of the material that was on it.

11 We're trying to arrange an opportunity for us to do  
12 that. Unless the government decides they want to do it first  
13 and then make copies for me, it will require my arranging to  
14 have a forensic person go to the government's office and to  
15 take the material off of the cell phone.

16 THE COURT: That doesn't sound so complicated though.

17 MR. GINSBERG: I don't think that it's that  
18 complicated. This is not very complicated, but it's 20  
19 additional disks worth of material. Frankly, your Honor, I  
20 didn't get to making the decision or understanding that that  
21 material wasn't available until late last year because I was on  
22 trial from September 15 through the first week in December, I  
23 believe, a three-month trial before Judge Engelmayer. I was  
24 reviewing discovery back and forth and reviewing it with my  
25 client, and only when I became aware, we made the request. The

1 material is now presented to us and we'll be able to review it.

2 In terms of a trial date, my first availability for a  
3 trial date would be in June. I have a February trial, a March  
4 trial, hearings in April for a May trial, and then the May  
5 trial would probably take two to three weeks, and then I don't  
6 have any other trials scheduled.

7 If your Honor wishes, we could set a tentative date,  
8 and I say that because, if there is going to be a trial in this  
9 case, I may make applications to the Court, which I've held off  
10 on doing, for Rule 15 depositions to be taken. I've held off  
11 on doing it because we're not sure there's going to be a trial,  
12 and there would be a lot of work and expense involved. If the  
13 application is made and granted by the Court, it would require  
14 overseas travel, and translators, and maybe videotaping, and  
15 things of that nature. I'm reluctant to begin that process  
16 unless I'm fairly certain that there is going to be a trial.

17 I've talked with the government, and hopefully by the  
18 end of this month I will be in a position to know whether we  
19 need to proceed along those lines or not, but I just didn't  
20 want to willy-nilly ask the Court to start doing that.

21 THE COURT: No. I'm very appreciative of that.

22 MR. GINSBERG: That's where we stand in terms of our  
23 availability. Thank you, your Honor.

24 THE COURT: Thank you. Does the government have any  
25 comment?

1 MR. STANSBURY: No, your Honor. I would just say that  
2 if we're looking at a potential June trial date, and  
3 Mr. Ginsberg is going to know within the next two to three  
4 weeks whether he's going to be making Rule 15 applications,  
5 there's no reason to not get going with the briefing on that so  
6 that we don't postpone the trial date even more.

7 THE COURT: Absolutely. I understand from  
8 Mr. Ginsberg's presentation that if, by the end of the month  
9 his view is that all of this is necessary, that he will hop to  
10 it and get that application in quickly so we can rule on it  
11 and, if granted, you people will have enough time to do what  
12 you have to do in advance of trial.

13 Let's set June 15 as the trial date. I'll ask you for  
14 your requested voir dire questions and your requests to charge  
15 the week before trial, unless you think there's something hinky  
16 there.

17 I am certain that you will work out a schedule for any  
18 trial motions that have to be made. From the government's  
19 briefing, I know that they will take care of whatever 404(b)  
20 issues we have well in advance.

21 What else, friends? Are we still thinking two to  
22 three weeks?

23 MR. STANSBURY: Yes, your Honor.

24 MR. GINSBERG: If the government's case will take two  
25 to three weeks, and if we do proceed with Rule 15 depositions,

1 I would say the defense case would take no more than a week,  
2 but it could take a full week with other witnesses and the  
3 possibility of the defendant testifying.

4 THE COURT: Thank you for that help.

5 MR. STANSBURY: Just to be more precise, I'm confident  
6 our case could probably be completed within two weeks.

7 THE COURT: Thank you.

8 Anything else today, friends?

9 MR. STANSBURY: No, your Honor. We just ask that time  
10 be excluded until the trial date of June 15 for the defendant  
11 to consider his Rule 15 deposition requests, and also for the  
12 parties to continue to explore any potential disposition short  
13 of trial.

14 THE COURT: Any objections, Mr. Ginsberg?

15 MR. GINSBERG: I have no objection, your Honor.

16 THE COURT: Thank you. In order to permit the parties  
17 to continue those activities, time between today and June 15 is  
18 excluded from calculation under the Speedy Trial Act in the  
19 interest of justice.

20 Did you have anything else, Mr. Ginsberg?

21 MR. GINSBERG: No. I think your Honor is clear that I  
22 tried to move as quickly as I can in this case given the kind  
23 of material that we have and the other constraints that I have  
24 with trials. I'm not in control of some of those other  
25 factors.



1 THE COURT: Would you be kind enough to update us by  
2 letter no later than the end of the month? Just let us know  
3 where you are in your process, that's all, so we don't lose  
4 track of what's going on.

5 MR. GINSBERG: Yes, your Honor.

6 THE COURT: Thank you.

7 MR. GINSBERG: You're welcome.

8 THE COURT: Counsel, thank you for your assistance.  
9 Your sleds are waiting outside.

10 (Adjourned)